

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re: JEROME TALLEY,

Respondent.

CASE NO. MC15-0164MJP

ORDER

Respondent is the subject of a Bar Order which directs (among other things):

Respondent Jerome Talley is prohibited from filing any civil action in the Western District of Washington unless the complaint or petition is accompanied by a signed affidavit stating under penalty of perjury that the complaint contains new allegations not previously litigated. Mr. Talley may not proceed *in forma pauperis* in any § 1983 or *Bivens* action without a showing that he is in imminent danger of serious bodily injury or death. Any complaint or petition filed by Mr. Talley that is not accompanied by a signed affidavit and/or an imminent danger showing will not be filed.

Dkt. #3 at 2. The Order further directs that:

Any habeas petition that is accompanied by the full filing fee or a completed application to proceed *in forma pauperis* will be docketed in this case, No. 3:15-mc-164 MJP, and reviewed by the Chief Judge, under the requirements of 28 U.S.C. § 1915(g), who will determine whether the case may proceed.

Id

On June 8, 2017, Respondent caused to be filed in this District a proposed “Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody.” Dkt. #14. It appears that Mr. Talley is seeking to be transferred from the custody of the Department of Corrections in

1 the State of Washington to the State of Nevada in order to address a case or cases that he has
2 pending in that jurisdiction. Dkt. #14. The proposed Petition is accompanied by a proposed
3 application to proceed *in forma pauperis* ("IFP"). *See* Dkt. #14-1.

4 As required by the Bar Order, Respondent's filing was sent to the Undersigned for review.
5 *See* Dkt. #3 at 2. The filing is not accompanied by a Declaration under perjury that the Petition
6 contains new allegations never before litigated; however, the Court is satisfied from a review of
7 the filing that the Petition contains previously-unlitigated allegations. However, the Court notes
8 that Respondent fails to show that he is in imminent danger of serious bodily injury or death.
9 Section 1915(g) specifically states:

10 **In no event** shall a prisoner bring a civil action or appeal a judgment in a
11 civil action or proceeding under this section if the prisoner has, on 3 or more
12 prior occasions, while incarcerated or detained in any facility, brought an
13 action or appeal in a court of the United States that was dismissed on the
grounds that it is frivolous, malicious, or fails to state a claim upon which
relief may be granted, **unless the prisoner is under imminent danger of
serious physical injury.**

14 28 U.S.C. § 1915(g) (emphasis added). Because Respondent has failed to make such a showing,
15 and because he is subject to more than three strikes in this District, this proposed Petition is barred
16 and SHALL NOT BE FILED with the Court.

17 The Clerk SHALL provide a copy of this order to Respondent.

18 DATED this 14 day of June, 2017.

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22 RICARDO S. MARTINEZ
23 CHIEF UNITED STATES DISTRICT JUDGE
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